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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,109	10/04/2005	Andrew Philip Churchill	CAF-34102/03	4175
25006 7590 01/22/2008 GIFTORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021				
EXAMINER THOMPSON, KENNETH L				
ART UNIT		PAPER NUMBER		
3672				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,109

**Applicant(s)**

CHURCHILL, ANDREW PHILIP

**Examiner**

Kenneth Thompson

**Art Unit**

3672

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 70-109 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 101 and 102 is/are allowed.
- 6) ☒ Claim(s) 70, 71, 73-75, 77-100, 103-109 is/are rejected.
- 7) ☒ Claim(s) 72 and 76 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 70, 71, 73-75, 77, 78, 81-89, 91, 92 and 94-100 are rejected under 35 U.S.C. 102(b) as being anticipated by Polley, U.S. 4,452,306.

Polley discloses a profile (46) located in a tubing string, a retrievable drift member (10) having a drift profile (36) to engage the tubing string profile, circulating the drift member through the tubing string and determining whether the drift member has engaged the profile (col. 3) by monitoring tubing string pressure. Polley discloses allowing fluid to drain through the restricted bypass apertures (18). Polley discloses the drift profile (36) section threadedly coupled to a body portion (16) and having a flexible sealing cup fins (44) engaging the tubing string profile enabling it to form a seal within the tubing.

Claims 70, 79, 83, 84, 92, 93 and 103-109 are rejected under 35 U.S.C. 102(b) as being anticipated by Conley et al., U.S. 3,965,978.

Conley et al. discloses tubing string (10) having an inner diameter and a profile (14) for a drift member (18) matching the inner diameter engaging the profile (14)

toward the distal end of a tubing string section (10), the metal drift member having a flow restriction (28,24,32); wherein the landing of the drift member is detectable uphole (col. 4, lines 24-51). Conley et al. discloses the inner diameter of the tubing string accommodates a pressure gauge device (42) having a smaller diameter than the drift member (18) for passing through and below (at 12) the profile section.

Claims 70 and 80 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebourg, U.S. 3,523,580.

Lebourg discloses all the claimed limitations including passing (col. 3, lines 44-51) the drift member (27) adapted to permit fluid therethrough (44,46,47). Lebourg does not disclose a restriction being encountered and retrieving the tubing (col. 4, lines 2-7).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Polley, U.S. 4,452,306 in view of Sizer, U.S. 4,108,257.

Polley discloses a launched member having a shearable sealing mechanism (fig 8). Sizer teaches use of a launched device (32) having a sealing mechanism with rupture disc (62). It would have been obvious to one having ordinary skill in the art at

the time of the invention to substitute one known launched sealing mechanism for another to achieve predictable results.

### ***Allowable Subject Matter***

Claim 72 and 76 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 101 and 102 are allowed.

### ***Response to Arguments***

Applicant's arguments filed 30 October 2007 have been fully considered but they are not persuasive.

Applicant argues the prior art does not disclose the drift member having a diameter selected to match the selected diameter of the tubing and engagement of the drift member with the profile provided in the tubing string is indicative that the tubing above the profile defines an unobstructed throughbore of at least said selected diameter.

The prior art above disclose methods of pressure testing the tubing above a seated plug which is indicative of a unobstructed through bore.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Thompson whose telephone number is 571 272-7037. The examiner can normally be reached on 6:00 am - 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

16 January 2008

/Kenneth Thompson/  
Primary Examiner  
Art Unit 3672